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REMARKS

Applicant acknowledges the Examiner's review of the specification, claims, and drawings. In light of the above amendments and following remarks, Applicant respectfully requests reconsideration of the present application. The amendments and remarks presented herein are fully supported by the application as originally filed. No new matter has been entered.

STATUS OF THE CLAIMS:

Claims 1-5, 8-10, and 15-24 were pending in the application. Claims 1, 3, 15, 18 and 20 have been amended and claims 25-32 have been added. Claims 2, 9, 10 and 21-24 have been cancelled. Claims 1, 3-5, 8, 15-20, and 25-32 remain pending in the application.

COMPLIANCE OF INFORMATIONAL DISCLOSURE STATEMENTS WITH 37 C.F.R. §1.98:

The Office Action states that the IDS submissions for the foreign references DE 678,838 and DE 4407631 have not been considered, apparently taking the position that insufficient translations were provided, but providing no explanation for why translations are required.

Reference DE 678,838, as previously noted in Applicant's response to the Office Action mailed September 16, 2004, was submitted in an IDS filed on March 3, 2004. The IDS included a copy of a European Search Report listing the reference and indicating its relevancy by way of the letter "Y" and noted that the search report was from a corresponding European patent application. MPEP §609(III)(A)(3) states that the requirement for a concise explanation of relevance for non-English information listed on an IDS, where the information was cited in a search report by a foreign patent office in a counterpart foreign application, can be satisfied by submitting the search report if the relevancy of the cited references is indicated on the search report by an "X", "Y", or "A". Enclosed with Applicant's response to the Office Action mailed September 16, 2004, was an English translation of the claims of DE 678,838. However, the response noted that the translation was being supplied only as a courtesy for additional reference. It was not submitted to meet application requirement under 37 C.F.R. §1.98.

Regarding reference DE 4407163, Applicant's response to the Office Action mailed September 16, 2004, included a supplemental IDS containing a concise statement of the

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relevancy of the reference. The IDS did not include a translation, or portion thereof. The present pending application filed on September 17, 2003, also included a discussion of this reference on pages one and two of the specification. MPEP §609(III)(A)(3) does not require that an English translation of a foreign language reference be provided in an IDS, only that a concise statement of the relevancy be submitted.

Applicant submits that English translations of these foreign references were not required and that Applicant has complied with MPEP §609(III)(A)(3). Therefore, Applicant respectfully requests acknowledgement of the above references.

CLAIM REJECTIONS UNDER 35 U.S.C. §112:

The Office Action rejects claims 1-5 and 8-10 under 35 U.S.C. §112, 2nd paragraph, for being inaccurate. The Office Action takes the position that claim 1 is inaccurate because the electric drive connected to one deflecting wheel 9, discussed on page 5 of the specification, does not rotate the carrying roller.

Applicant respectfully notes that claims 2, 9 and 10 have been cancelled, thereby eliminating the rejection with respect to these claims. Claims 3-5 and 8 ultimately depend from claim 1. Therefore, the rejection of these claims will be addressed below in reference to claim 1.

Applicant respectfully traverses the rejection. With respect to claim 1, claim 1 has been amended to include the limitations of now cancelled claims 2 and 10 and more clearly define Applicant's invention, which now calls for:

A conveying path for articles, in particular for baggage containers, said conveying path comprising:

at least two spaced-apart conveyors which support articles, said at least two spaced-apart conveyors running parallel in a conveying direction, at least one of said conveyors having a driven endlessly circulating conveying belt guided over deflecting wheels wherein the articles can be carried on a top side of a top strand of said conveying belt;

carrying rollers arranged one behind the other in the conveying direction, between the deflecting wheels in order to support the conveying belt;

a drive, said drive pressure-exerting rollers which are arranged parallel to said carrying rollers and press a bottom strand of said conveying belt in a frictionally locking manner, from beneath against said carrying rollers causing the circumferential speed of this carrying roller to equal the running speed of the conveying belt even if the top strand is not resting on the carrying roller;
wherein said conveying belt comprises a toothed belt, wherein a toothed side of said toothed belt has a crosspiece which projects from a surface of said conveying belt and runs parallel to a longitudinal dimension of

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said conveying belt, wherein articles may be carried on a non-toothed side of said toothed belt.

Claim 1 has been amended to specify that pressure-exerting rollers press a bottom strand of the conveying belt against the carrying rollers, thereby providing rotational motion to the carrying rollers even when the top strand of the conveying belt is not in contact with the carrying rollers. The specifying of pressure-exerting rollers in currently amended claim 1 corresponds to the pressure-exerting rollers of claim 15. Applicant respectfully notes that the Office Action did not reject claim 15 under 35 U.S.C. §112. Therefore, Applicant respectfully submits that claim 1 is not inaccurate for the above discussed reasons and respectfully requests a Notice of Allowance of claim 1, as well as allowance of claims 3-5 and 8, which ultimately depend from claim 1.

CLAIM REJECTIONS UNDER 35 U.S.C. §103:

The Office Action rejects claims 1-5, 8-10 and 15-24 under 35 U.S.C. §103(a) as being unpatentable over European reference EP 0802129 A2 (the "129 reference") in view of U.S. Patent 3,047,126 to Ebner (the "Ebner" reference). The Office Action takes the position that it would have been obvious to position support rollers 12 of European reference '129 higher so that belt 5 constantly engages and drives rollers 3, 4 as taught by idler rollers 70, belt 46, and rollers 44 of Ebner.

Applicant respectfully notes that claims 2, 9, 10 and 21-24 have been cancelled, thereby eliminating the rejection with respect to these claims. Claims 3-5 and 8 ultimately depend from claim 1, therefore, the rejection of these claims will be addressed below in reference to claim 1. Claims 16-20 ultimately depend from claim 15, therefore, the rejection of these claims will be addressed below in reference to claim 15.

CLAIM 1:

Applicant respectfully traverses the rejection. With respect to claim 1, claim 1 has been amended as detailed above to more clearly define Applicant's invention.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference or references when combined must teach or suggest all the

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claimed limitations. The teaching or suggestion to make the claim combination and reasonable expectation of success must both be found in the prior art and not based on Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). See MPEP § 2143.

Applicant again respectfully submits that the conveying path for articles of claim 1 is not obvious over the '129 reference in view of Ebner as neither of these references suggest nor address a solution to the problem overcome by claim 1. The present invention addresses the problem of wear on the conveying belt and carrying rollers. (p 2, ll. 18 – p. 3, ll. 29). This wear results when a constantly moving belt is initially separated from one or more of the carrying rollers due to manufacturing tolerances such that the circumferential velocity of the roller either slows or stops relative to the belt. When the belt subsequently re-engages the carrying roller, the roller slips against the belt until it accelerates to the velocity of the belt. Notably, because the belt of claim 1 is specified as a toothed belt, it will be a constantly moving belt as a result of mechanical engagement with the teeth.

I. No Suggestion or Motivation to Combine References

The specification of Ebner notes that the disclosed structure may aid in moving the belt in a linear manner. (col 3, ll. 41-42). Ebner, as shown in FIG. 2, discloses a plurality of rollers 44 supporting an upper run of conveyor belt 46. FIG. 2 also discloses belt 46 as a flat belt and rollers 44 as smooth, drum rollers with two idler rollers 70 being located beneath the lower run of belt 46. Ebner indicates that idler rollers 70 support belt 46 "generally in close proximity to the lower surface of the rollers 44 and the lower tangential surface of certain of the rollers 44 may engage the lower run of the belt 46 and aid in moving the belt 46 in a linear manner." (col. 3, ll. 38-42). That is, Ebner merely suggests a technique to simply maintain movement of the belt.

Although Ebner suggests a technique to aid linear movement of the belt, it does not suggest a technique to prevent wear between a belt and carrying rollers. This is evident in that Ebner discloses only two idler rollers 70 relative to fourteen rollers 44, with ten such rollers 44 not being contacted by the lower run of belt 46. These non-contacted rollers 44 will either slow or stop rotating when separated from the upper run of belt 46 such that, when re-contacted by the upper run of belt 46, the belt 46 and rollers 44 will experience wear as the rollers 44 slip against belt 46 while they are accelerated to the speed of belt 46.

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There is no motivation to employ the technique of Ebner to the '129 reference because belt 5 of the '129 reference already moves in a linear fashion. The '129 reference discloses a toothed conveyor belt 5 that is guided over deflecting wheels 9 and supported by carrying rollers 4. The presence of teeth on belt 5 ensures that belt 5 will be driven in a constant, linear fashion such that the conveyor belt and items transported thereon will not move in a jerky, hesitating manner. Furthermore, the support roller 12 shown to the left in FIG. 2 is located directly below a carrying roller 4 such that, if this support roller 12 were positioned higher, it could actually pinch belt 5 and restrict the linear movement of belt 5.

The '129 reference, like the invention of claim 1, employs a toothed belt such that the belt moves in a mechanically engaged, constant, linear fashion. The Ebner reference notes the potential to aid linear movement of a flat, non-toothed belt. Because the belt of the '129 reference already moves in a linear fashion, there is no suggestion or motivation to apply the teachings of Ebner to the '129 reference. Therefore, Applicant respectfully submits, it would not be obvious to combine the references.

Although the Ebner and '129 references are both generally directed toward conveyors, Applicant submits that there is also no motivation to combine them for the additional reason that they are specifically directed at distinctly different applications. Ebner is directed to a hay bale conveyor having a single conveying path and, in contrast, the '129 reference and the invention of claim 1 are directed toward baggage container conveyors comprising at least two separate, spaced apart conveyors.

As shown in the '129 reference, baggage container 1 straddles the two spaced conveyors. Baggage container 1 is intended to retain luggage for transportation at an airport, or packages for transportation at a distribution center, or the like. Baggage container 1 will, therefore, necessarily typically be of much greater weight than a single bale of hay. Baggage container 1 also has a relatively small contact area with the two conveyors as the container does not contact a single conveyor belt along the entire bottom of the container. Because of the greater weight and limited contact area, the baggage container conveyor of the '129 reference and claim 1 will experience much greater contact stresses than a hay bale conveyor. Therefore, Applicant submits, there would be no motivation to combine any teachings of Ebner with the '129 reference.

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II. No Reasonable Expectation of Success if References Combined

Combining the Ebner reference with the '129 reference would not solve the problem of slippage wear addressed by claim 1. Claim 1 specifies that the pressure-exerting rollers press a bottom strand of the conveying belt in a frictionally locking manner against the carrying rollers such that the circumferential speed of the carrying rollers is maintained equal to the running speed of the conveying belt.

In contrast, Ebner does not disclose that the lower run of belt 46 is sufficiently engaged with the four contacted rollers 44 such that belt 46 is able to maintain the circumferential speed of those rollers 44 and thereby inherently prevent wear between the four rollers 44 and the belt 46. The idler rollers 70 of Ebner are noted in the specification as only "retaining [the belt 46] generally in close proximity to the lower surface of the rollers 44." (col. 3, ll. 38-39). Correspondingly, as shown in FIG. 8 of Ebner, idler roller 70 is positioned vertically below roller 44 such that a gap exists between the lower most tangential surface of roller 44 and the upper most tangential surface of idler roller 70. Ebner, therefore, does not teach the frictionally locking pressing of a bottom strand of a belt against carrying rollers.

The '129 reference discloses two support rollers 12. If combined, Ebner would only teach the raising of support rollers 12 to position belt 5 "generally in close proximity to the lower surface" of carrying rollers 4. As Ebner discloses a vertical gap between rollers 44 and 70, this would not provide a reasonable likelihood of success that belt 5 would frictionally lock against carrying rollers 4 such that their circumferential speed was maintained equal to the running speed of the belt 5 and thus prevent slippage wear between belt 5 and carrying rollers 4. Therefore, Applicant respectfully submits, it would not be obvious to combine the references.

CLAIM 5:

With respect to claim 5, the Office Action takes the position that the criticality of the overlap has not been proven such that the overlap of idler rollers 70 and rollers 44 of Ebner are considered to be functionally equivalent. As noted above, however, Ebner does not teach an overlap of idler rollers 70 and rollers 44. As shown in FIG. 8 of Ebner, idler roller 70 is positioned a vertical distance below roller 44 such that there is no vertical overlap of the outer surfaces of idler roller 70 and roller 44. Furthermore, the written specification only notes that "the lower tangential surface of certain of the rollers 44 may engage the lower run of the belt

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46" (col. 3, ll. 39-41), and does not discuss the vertical relationship of idler rollers 70 to rollers 44.

In contrast, Applicant's specification specifically notes that an overlapping relationship of the pressure-exerting rollers 11 with the carrying rollers 4 "produces guidance for the bottom strand" of the belt and results in "reliable abutment of the inside of the bottom strand against the carrying roller." (p. 4, ll. 13-16). The written specification further notes that "optimum action is achieved by an overlap . . . [of] 5 mm." (p. 4, ll. 18-20). The overlap of the pressure-exerting rollers, therefore, functions to enhance the frictionally locking press of the bottom strand of the conveying belt against the carrying rollers and provides tracking for the belt.

Applicant respectfully submits, due to the lack of a teaching in Ebner of an overlap and the detailed description of the overlap in Applicant's specification, that the criticality of both the existence and the size of the overlap is evident.

Applicant submits that the conveying path for articles of claim 1 is not obvious over the '129 reference in view of Ebner for the reasons discussed above and respectfully requests a Notice of Allowance of claim 1, as well as allowance of claims 3-5 and 8, which depend from claim 1.

CLAIM 15:

With respect to claim 15, claim 15 has been amended to more clearly define Applicant's invention, which now calls for:

A conveying path for articles, in particular for baggage containers, said conveying path comprising:

at least two spaced-apart conveyors which support articles, said at least two spaced-apart conveyors running parallel in a conveying direction, at least one of said conveyors having a driven endlessly circulating conveying belt guided over deflecting wheels wherein the articles can be carried on a top side of a top strand of said conveying belt;

carrying rollers arranged one behind the other in the conveying direction, between the deflecting wheels in order to support the conveying belt; and

pressure-exerting rollers which are arranged parallel to said carrying rollers, said pressure-exerting rollers including a pair of end pressure-exerting rollers being defined as the first and last pressure-exerting rollers relative to the conveying direction;

wherein said pressure-exerting rollers and press a bottom strand of said conveying belt in a frictionally locking manner[,] from beneath against said carrying rollers located between said end pressure-exerting rollers, said pressure-exerting rollers causing the circumferential speed of the carrying

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rollers located between said end pressure-exerting rollers to equal the running speed of the conveying belt even if the top strand is not resting on the carrying roller.

As discussed, Ebner does not address the problem of slippage wear between belt 46 and rollers 44, this being evident by the numerous rollers 44 that are not contacted by the bottom run of belt 46 that may slow or stop when separated from the top run of belt 46. Notably, FIG. 2 of Ebner discloses four rollers 44 located between the two idler rollers 70 that would be most likely to become separated from belt 46 as the middle of the conveyor is the location of the most "play" on a typical conveyor belt.

Claim 15, as amended above, specifies a pair of end pressure-exerting rollers, with the pressure-exerting rollers pressing a bottom strand of the conveying belt in a frictionally locking manner against the carrying rollers located between the end pressure-exerting rollers causing the circumferential speed of the carrying rollers located between the end pressure-exerting rollers to equal the running speed of the conveying belt even if the top strand is not resting on the carrying roller.

Applicant submits that the conveying path for articles of claim 15 is patentably distinguishable over the cited references as they do not suggest or address a solution to the problem of slippage wear between a belt and carrying rollers located between end pressure-exerting rollers. Therefore, Applicant respectfully requests a notice of allowance of claim 15, along with claims 16-20 which depend from claim 15.

NEW CLAIMS:

Claims 25-32 have been added and are now pending in the application. Claims 25-28 all ultimately depend from claim 15 and claims 29-32 all ultimately depend from claim 1. Applicant respectfully urges, for the reasons set forth above, that claims 1 and 15 are now in condition for allowance and, therefore, claims 25-32 should also be allowable.

Claim 31, which depends from claim 1, adds the limitation of a radial groove on the carrying rollers. The radial groove shown at 17 in FIG. 3 of the present application is adapted to receive the crosspiece 15 that projects from the toothed side of the toothed belt 5. The radial groove 17 and crosspiece 15 provide lateral guidance to the belt 5. The crosspiece 15 additionally prevents the teeth of the belt from contacting the carrying rollers 4, thus eliminating the noise of the teeth contacting the carrying rollers 4. Finally, because the

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carrying rollers 4 need not include teeth in this arrangement, as the deflecting wheels 9 may include the drive teeth, the cost of producing the carrying rollers 4 is reduced.

Applicant submits that neither Ebner nor the '129 reference disclose a carrying roller having a radial groove. Therefore, applicant respectfully submits, the invention of claim 31 is patentably distinguishable from the cited references and is in condition for allowance.


In light of the above amendments and remarks, Applicant respectfully requests reconsideration of the present application and a Notice of Allowance of all pending claims.

Respectfully submitted,

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Dated: March 28, 2005.


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